

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

LOREN A. JOHNSON
Claimant

VS.

SIDING SUPPLY, INC.
STONEYPPOINT CONSTRUCTION
Respondents

AND

INDIANA LUMBERMENS MUTUAL INS. CO.
NORTHWESTERN NATIONAL CASUALTY
Insurance Carriers

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) Docket Nos. 211,043 & 220,243
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ORDER

Respondent, Siding Supply, Inc., and its insurance carrier, Indiana Lumbermens Mutual Insurance Company, appeal from the preliminary hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes on April 28, 1998.

ISSUES

The April 28, 1998 Order appoints Dr. Peter V. Bieri to act as a neutral physician for purposes of an opinion as to the cause of claimant's carpal tunnel syndrome, specifically whether the condition was caused by work before claimant left employment of Siding Supply or, in the alternative, resulted from subsequent aggravation or new injury. It also required respondent, Siding Supply, Inc., to pay the costs of the examination. On appeal, respondent contends the ALJ exceeded her jurisdiction.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After considering the arguments, the Appeals Board concludes that the ALJ did not exceed her jurisdiction by entering the appealed Order.

Claimant last worked for respondent in December 1994 and has since worked for several employers. He was first diagnosed with carpal tunnel syndrome in December 1996 but it is apparent symptoms began earlier. Respondent, Siding Supply, contends the

evidence establishes that claimant's carpal tunnel syndrome did not stem from employment for respondent but, instead, from subsequent work or other activities.

The Board's jurisdiction is limited to review of allegations the ALJ exceeded her jurisdiction. K.S.A. 1997 Supp. 44-534a and K.S.A. 1997 Supp. 44-551. K.S.A. 44-516 authorizes the appointment of a neutral health care provider in case of any dispute as to the injury. As we understand the Order currently entered by the ALJ, that Order does not constitute a finding that claimant's injury arose out of and in the course of employment with Siding Supply. The ALJ has ordered an examination to assist her in determining that question and assessed the cost against Siding Supply, Inc. The Order does not exceed her jurisdiction and the Order by the ALJ should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Nelsonna Potts Barnes on April 28, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1998.

BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Vincent A. Burnett, Wichita, KS
Ronald J. Laskowski, Topeka, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director